IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No. 153 of 1995

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG
HONOURABLE MR.JUSTICE D.H.WAGHELA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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COMMISSIONER OF INCOME TAX - Applicant(s)
Versus
APEX ELECTRICALS PVT. LTD. - Respondent(s)

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Appearance :
MR MANISH R BHATT for Applicant
None for Opponent

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

and

HONOURABLE MR.JUSTICE D.H.WAGHELA

Date : 25/09/2006

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE R.S.GARG)

1. The Income-tax Appellate Tribunal, Ahmedabad Bench “C”, at the instance of the Revenue has referred the following question under Section 256[1] of the Income-tax Act, 1961 for the opinion of this Court, which relates to the Assessment Years 1981-82 to 1983-84 arising out of the Income-tax Appeals No. 322/Ahd/1989 and Income-tax Appeals No.1053 & 1054/Ahd/87.

> “Whether, the Appellate Tribunal was right in law and on facts in directing the ITO to allow deduction in respect of the lease rent which according to the ITO was a capital expenditure?”

2. For the reasons stated in Income Tax Reference No. 239/95 decided today, the question referred to this Court is answered against the interest of the Revenue and in favour of the assessee. The Reference stands disposed of. No costs.

[R.S.GARG, J.]

[D.H.WAGHELA, J.]

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